Event summary of Session 6

Interview and Investigation Skills

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A. What is an interview?

- Any purposeful face to face communication
- A goal-driven transaction characterized by questions and answers, clear structure, control, and imbalance
- A structured conversation intended to elicit information
- A formal meeting in which one or more persons question, consult or evaluate another person
- Interaction, interviewer action would depend on interviewee response, and vice versa
- Not a presentation, less scripted but not less preparation

B. Role of Interview in an Investigation

- Type of Investigations

  ✓ Procurement Fraud
  ✓ Asset misappropriations
  ✓ Financial statement fraud
  ✓ Money laundering
  ✓ Intellectual property theft
  ✓ Trade compliance
  ✓ Economic Sanctions
  ✓ Anti-bribery and corruptions

- Purpose of an Investigation

  ✓ Ascertain whether fraud took place and if so, for how long it was perpetrated
  ✓ Ascertain whether the wrongdoings are still continuing
  ✓ Understand the impact (qualified and quantified)
  ✓ Determine whether the loss, if any, can be recovered
  ✓ What lessons have been learnt?
  ✓ Formulate measures to prevent recurrence

- Purpose of Interview

  ✓ To obtain accurate, reliable and comprehensive information from victims, witnesses and / or suspects about matters under investigation
  ✓ To create a full, truthful and accurate account of what has transpired and other pertinent information of which the interviewee has knowledge
  ✓ To customize interviews based upon the situation and interviewee.

- Investigation cycle involves:

  a. Compliance Framework
  b. Dealing with allegation

c. Investigation scope/ objectives

(How could an interview help for these three purposes? During the early investigation, you may not have sufficient information on allegations, relevant policies and/ or documents. An interview could provide you with further clues to put the puzzles together, enhancing your understanding of the issues to be dealt with. A possible quickest way to perceive the whole picture is to talk to the concerned whistleblower.)

d. Investigation team

e. Gathering evidence & analysis (Note: how could an interview help for this purpose? As the investigation develops, you have acquired more information from your analysis and would like to confirm that you are on the right track to dig deeper.)

f. Managing relationship

g. Managing the investigation

h. Dealing with suspects (Note: How could an interview help for this purpose? Towards the end of the investigation, you may identify the suspect and invite him/ her to explain further/ make an admission based on the gathered information.)

i. Reporting

j. Disciplinary and legal action

k. Closure

l. Lessons

- To form an investigation team: different component teams have different focuses

Cluster	**Role in the investigation**	**Purpose of the interview**	**Timing of interview during the engagement**
Forensic Accounting	• Assist counsel with in-depth and objective analysis of financial data or other fact-finding tasks • Reconstruct a series of transactions or check the appropriateness of how any improper activity may have been reflected in the financial statements	• To obtain full account of events from interviewee • Evidence gathering	• Throughout the entire investigation cycle
Business Intelligence	• Gather actionable intelligence externally related to key subjects	• To establish additional parties	• Information gathering stage

	or entities without unnecessarily alerting employees and others • Such intelligence may include corporate, track record, business and political connections, financial health, etc. • Identifying additional key subjects for the investigation	potentially relevant to the investigation • Discreet inquiries to ascertain the existence of businesses	
Computer Forensics / e-Discovery	• Collect, analyse, and report on digital evidence in a forensically sound manner • Understand key subjects' conduct from sources including: the company's email servers, the cloud or personal devices such as laptops and mobile phones. • Use a centralized review platform to quickly search for key people, words and dates • Perform analytics to identify trends (e.g. artificial intelligence and concept clustering groups conceptually like documents together)	• To locate the storage of potential digital evidence, in one form or another, on the computer system. • To determine the integrity of digital evidence.	• Information gathering stage
Data Analytics	• Using targeted querying of the company's databases, identify patterns that may be signatures of improper activity	• To understand what data is available to be analysed and how that data is structured.	• Identification and Collection of Evidence Stage

	• Transform, analyze, and visualize complex data to reveal actionable insight in an investigation	• To determine which data fields and records are affected by the potential frauds. • To identify the logistics involved with obtaining the information, such as who generates and maintains the data; where the data is stored; timing of data extraction	• Information analysis stage

- **Interview Flow: The PEACE Model**

1. Planning & Preparation phase

- Develop an overall strategy for the interview

- Identify the interview's purpose in the grander investigation
  - Do you wish to corroborate or confirm certain information through this interview?

- Establish the objectives for the interview
  - What information do you wish to obtain from the interview?
  - Are these interviews fact seeking?
  - Is there any intention to turn the interviewee into a potential source? That may mean you may wish to collaborate with that interviewee in due course.
  - Are you seeking an alibi? In general, forensic accountants are not the police to identify the criminals but for the fact findings and information gathering.

- Determine whom to interview and timing

- Should you tell the interviewee that they are a target of the investigation?

To address the questions from the foregoing, the following factors may be taken into account:

- Preparation – Consideration

  - Understand the case background

    - Fraud could be uncovered through:

Whistleblowers; rumours and office gossip; internal audit; third party complaints; unexpected and/or mass departures of staff; discovering a loss of intellectual property; short sellers

- Developing a suitable plan of action – scoping, with reference to:
  - Information available at the time
  - Any similar allegations which, for whatever reason, were not investigated
  - Any prior investigations involving the subject matter
  - Any prior investigations (or pre-employment screening checks) into the subject individuals

- Interviewees
  - Consider the interviewee's title, position, authority and knowledge of the subject matter
  - Interviewee(s) may be approached as
    - Suspects being accused
    - Accuser/Whistleblower
    - Co-workers who work in area where alleged misconduct occurred
    - Past and present supervisors of the accuser and accused
    - Witnesses
    - Authors of relevant documents
    - Third parties
    - Individuals who have a stake in an asset or transaction at issue
  - Plan the order of interviews
    - Discussions should first be held with neutral third party witnesses / individuals (e.g. In the case of embezzlement of cash reimbursements, one may wish to talk to the staff responsible for account payable, his/ her supervisors who have approved the relevant transactions, etc.).
    - Key witnesses should then be interviewed in a logical fashion from the least likely to the most likely to be involved.
    - Those suspected of complicity should be interviewed next, from the least culpable to the most culpable.
    - The subject of the investigation is interviewed at the last stage.
    - Most vulnerable witness should be interviewed before the more reluctant witnesses to obtain a broader base of information that can be used to formulate questions in interviews later.
  - Other considerations
    - Resignation/dismissal
    - Relationship with the subject

- Setting

  - Venue

    The interview:
    - should be held in a venue where the subject will feel comfortable and secure
    - should be conducive to effective information-gathering, and ensure the fairness of the process
    - should be conducted under a relatively benign environment, and the witness should be physically free to get up and leave at any time
    - should rarely be held in restaurants or other public places
    - may be held at an off-site location if there is any concern of disruption in the workplace as a result of confronting the witness
    - may not be conducted through telephone calls which should be treated as a last resort

  - Duration
    - Time management
    - Avoid breaking the interview into two sessions
    - Avoid setting the interview time to be before lunch or dinner/ late night/ before flight
    - Consider logistic arrangement for interviewee

  - Timing
    - Conduct the interview as closely as possible to the event in question
    - Memories of potential witnesses and respondents can become deteriorating, and critical details can be distorted or forgotten

- Consider appropriate mix (and number) of interview team
  - Legal and procedural knowledge
  - Financial, business and forensic accounting skills
  - Computer forensics and data analytics (for larger matters: e-discovery know-how and tools)
  - Interviewing techniques
  - Strong analytical skills, skeptical and tenacity
  - Number of team members

- Legal considerations
  - In most instances, legal authority is not required to interview people or inquire into matters
  - Access to interviewee may be prevented once the criminal case has entered legal procedure
  - Evidence to be produced in court
    - Avoid making notes regarding overall opinions or impressions of a witness. Such notes can cause problems with credibility if they are later produced in court

- Logistics and safety

Logistics	**Safety**
❖ Consider the need to hire an interpreter if the interview is conducted in foreign language ❖ Role of the interview team should be agreed beforehand, i.e. who will be the lead interviewer, and who is responsible for note-taking ❖ Mobile phones or recording devices should not be allowed unless it is for the purpose of recording the interview – need to inform interviewee and conform to data collection laws as relevant / appropriate ❖ Which evidentiary documents to bring into the interview	❖ Safety of the interview venue to interviewer and interviewee is a priority. Take a balance between somewhere you have control and location you can maximize the information to be obtained. ❖ If your interviewee appears to be under the influence of drink or drugs, consider to arrange another interview session and assess any alternative procedures ❖ Attention to surroundings and consider seating arrangement inside a room. ❖ If you face a personal safety threat, sexual harassment, assault, hate speech, pull out immediately ❖ Always action in pairs – have second interviewer to participant in the interview and visit the venue together

➢ Design interview question

- Use of different types of questions in a logical sequence to maximize the information gathered from an interview

- First interviews are conducted for the purpose of gathering information as well as encouraging open communication, therefore it is important to build rapport and put the interviewee at ease first

- As a rule of thumb, start with easy questions

  ❖ This helps to assess the interviewee's behavior and body language and whether he or she is comfortable and telling the truth (e.g. what are your daily duties?)

  ❖ When you get to the tougher questions, you can see whether the interviewee reacts differently

  ❖ General > Work-related > Specific

- Interview Question Typology

  - Introductory Questions (Establish introduction, rapport; agreement to cooperate with interviewers)

    - Establish the interview theme to get a commitment to assist (*e.g. "I am doing a review of procedures here at the company. Maybe you can help me?"*)
    - Create the perception of the interviewer as being open and friendly (e.g. Making physical contact to break down psychological barriers to communication)
    - Establish a transitional statement (e.g. "It is pretty routine, really. I am gathering some information about the purchasing function and how it is supposed to work. It would be helpful to me if I could start by asking you to tell me about your job. Okay?")
    - Seek continual agreement (e.g. "Can you help me?"/ "That's okay, isn't it?")
    - Do not invade respondent personal space (closer than about three feet)
    - Make sure interviewee is clear about the procedures and feels comfortable in the setting (e.g. "Is there anything you would like to clarify?"/ "Do you want a coffee or water?")

  - Information Questions (Open, closed, leading; fact gathering)

    - Begin with background questions (e.g. *"What do your responsibilities involve?"*)
    - Observe verbal and nonverbal behavior
    - Ask non-leading (open) questions (e.g. *"Please explain the chain of command in your department."*)
    - Approach sensitive questions carefully (e.g. *"Where do you think the company is vulnerable to someone here abusing their position?"*)
    - Jog the respondent's memory by comparing unknown items with known items. (e.g. *"Was the amount of money involved more than last year's figure?"*)

  - Assessment Questions (Verbal and nonverbal clues; test honest responses or try to hide something)

    - Proceed from the least to the most sensitive
    - Get the respondent to understand the serious nature of fraud and abuse (*e.g. "The company is particularly concerned about fraud and abuse. There are some laws in effect that will cost the company millions if abuses go on and we don't try to find them. Do you know which law I am talking about?"*)
    - Make the wrongdoer think that someone has named him a suspect (e.g. *"Is there any reason why someone who works with you would say they thought you might feel justified in doing something wrong?")*

- Admission-Seeking Questions (when the culpability is reasonably certain)

  - Make a Direct Accusation (e.g. "*Our investigation has clearly established that you took company assets without permission*.")
  - Reasoning (e.g. "*I know what you say, but that doesn't reconcile with these invoices here in front of me. Look at the invoice in the amount of $100,000. The facts clearly show you are responsible*.")
  - Establish rationalization (e.g. "*I know this is totally out of character for you. I know that this would never have happened if something wasn't going on in your life. Isn't that right?*")
  - Diffuse Alibis (e.g. Respondent: "I couldn't possibly have done this. It would require the approval of a supervisor." Interviewer: "In normal situations it would. The problem is that your statement doesn't hold up. There are several people who will tell a completely different story.)
  - Present alternative question to obtain a benchmark admission (e.g. "Did you plan this deliberately, or did it just happen?")

- Closing Questions (Reconfirm facts and gather additional facts)

  - Reconfirm facts (e.g. "*I want to make sure I have my information straight. Let me take a minute and summarize what we've discussed.*")

  - Gather additional facts, e.g.

    "You have known [subject individual] for eight years, correct?"

    "You knew [subject individual] had some financial problems, is that right?"

    "You suspected – but didn't know for sure – that [subject individual] might had an improper relationship with one of our vendors. Is that correct?"

    "Are there any other documents or evidence I might look for?"

  - Conclude the interview and open for further information

    "Anything about this company and your role you would like to share with us?"

    "About this matter, who would you suggest we could have a discussion with to gain further understanding?"

    "Do you feel that I have treated you fairly in this interview?"

- Interview Questions Techniques

Open Questions	Difficult to give “yes” or “no” answers. Try to ask only open questions in informational phase
Closed Questions	Specific information; usually “yes” or “no” answers
Leading Questions	Prompts a respondent towards providing an already-determined answer (e.g. an interviewer guides his/ her interviewee to tell him/ her what has happened)
Double-Negatives	Confusing and may not get accurate information
Double Barreled	Complicated or covers too many issues
Controlled Answer Techniques	Stimulate or direct the interview toward a specific point
Free Narratives	Orderly, continuous account of an event or incident, given with minimal or no prompting (e.g. an interviewer provides some information in order to encourage his/ her interviewees to give out more information.)

2. Conducting an interview, including phases of Engage & Explain, Account, Clarification, Compare, and Contrast, and Closure

- Core values of a good interviewer:
  - Integrity
  - Accountability
  - Respect
  - Compassion
  - Fairness
- How would a good interviewer approach an interview?
  - Be prepared. Do your homework and be familiar with the case background
  - Know your interview objective
  - Build up an atmosphere where the interviewee is comfortable to speak
  - Listen to your interviewee
  - Be professional and keep calm
  - Take notes
  - Manage interview time
- Making Introductions
  - Self-Introduction
    - Self-introduction before the interview commences
    - Indicate names and company, but avoid stating titles
    - In general, the more informal the interview, the more relaxed the respondent
    - Use a title that will not conjure up emotions or possible fear in the respondent’s mind if giving titles cannot avoided

- State the Purpose of the Interview
  - Purpose of the interview should be general and not specific.

    The specific interviewer purpose will be conveyed to the respondent in due course.

    "I am working on a matter and I need your help"
    "I am doing a review of procedures here at the company"
    "I am developing some information on our purchasing procedures"

  - The goal is to get the respondent to make a commitment to assist.
  - If the interviewer makes a request for assistance and the respondent remains silent, the interviewer should repeat the question in a slightly different way until the respondent verbalizes commitment.
  - Interviewers need to check the identity of their interviewees to avoid unpleasant circumstances where the interview procedures may be questioned by regulators at a later stage.

- Interviewee Rights
  - Employee rights vary from case to case and jurisdiction to jurisdiction
  - Always consult with legal counsel regarding the specific laws and regulations for their locality to ensure the interview complies
  - Interviewee right – not answer certain questions, provide factual or opinion answers

- Ask for Permission to Record
  - Consult with an attorney when deciding whether to record an interview
  - Covert recording is suggested if recording an interview without the respondent's consent is legal
    - Provides an accurate record without disturbing the flow of the interview
    - However, if the subject asks if the interview is being recorded, do not lie. Explain that it is in the subject's best interest that an accurate recording be made and that the subject can have a copy when completed

- Building Rapport
  - Rapport is a relation marked by harmony, conformity, accord, or affinity
  - Establish some common ground with the respondent

- Spend a few minutes engaging the respondent in casual conversation to build rapport

❖ Legal Considerations / Confidentiality

- Use of deception in interviews
  - The interviewer may not employ any deception likely to cause an innocent person to confess e.g. promise of confidentiality
- False imprisonment - the restraint by one person of the physical liberty of another without consent or legal justification.

  Examples:
  - Interviewer locks the interview room
  - Stands in front of the exit
  - Refuses to let the suspect to leave
  - Many countries have false imprisonment laws that protect against unlawful confinement

❖ Examples of Good and Bad Introductions

- Good Introduction Examples:
  - Provides a full explanation to interviewee of entitlement to rigs
  - Delivers appropriate warning with a clear and accurate explanation

- Bad Introduction Examples:
  - Rushes introduction and fails to check on interviewee's comprehension of the information provided
  - Does not identify or explain the roles of all persons present in the interview

❖ Interview Mechanism

- **Note-Taking**
  - Start each interview on a separate sheet of paper.
  - Take accurate notes, but not necessarily verbatim. Do not try to write down all the information you are given during an interview
  - Do not slow down the interview process for note-taking
  - Write down key words or phrases, and then go back over the details at the end of the interview

- **Time Management**
  - Monitor the time throughout the interview
  - Consider logistic arrangement before and after the interview for the interviewee

- **Decide on evidentiary documents to bring into the interview and which documents they might seek from the subject**

- **Every investigation can potentially end up in court – so plan accordingly**

- Establish all known and possible repositories of relevant documents and materials, whether paper or electronic and originals or copies.
- Preserve potential ‘evidence’ – avoid potential contamination (or even just room for doubt) as to the provenance of the evidence
- Ensure appropriate “Chain of Custody” documentation
- Secure storage of potential ‘evidence’
- Where appropriate designate an “Exhibits Officer”
- For larger investigations, deploy appropriate document management systems (both paper and electronic)

❖ Interview Techniques

- Use of volume (e.g. if you are angry, your volume of voice is in general much higher), pitch and voice quality to convey meaning

- Observe changes in the non-verbal accompaniment and whether verbal and non-verbal are harmoniously reinforcing or tend to give conflicting signals

  - Use of body language: body language (55%), tone of voice (38%), actual words (7%).

- Communication inhibitors and Communication facilitators

Communication inhibitors	Communication facilitators
○ Social-psychological barrier that impedes the flow of relevant information by making the respondent unable or unwilling to provide information ○ Interviewer’s task is to minimize inhibitors, i.e. from unwilling to willing ○ Chronological confusion: Interviewee confuses the order of events or experiences when time is passed	○ Social-psychological forces that make conversations (interviews) easier to accomplish ○ Recognition: Attention from others (e.g. people like to be respected.) ○ Altruistic appeals ✓ Need for humans to identify with higher value beyond self-interest ✓ Good interviewer must understand respondent’s value system ○ Catharsis ✓ Purification and purgation of emotions, particularly pity and fear ○ Extrinsic Rewards (e.g. verbal recognition of interviewees’ assistance may be appreciated.)

- Different Scenarios when Dealing with Interviewees

  - Irrelevant Information
    - ✓ Cast what the respondent says in a form that directs attention back to the problem and to the interest of both sides
    - ✓ Ask the respondent leading questions or controlled answer questions

  - Defensive and Reluctant
    - ✓ To build a common ground and connection
    - ✓ To disarm the respondent, listen, acknowledge the point, and agree whenever possible
    - ✓ To ask hypothetical question as it is considered less threatening
    - ✓ For example: Where the prospective interviewee says “I’m too busy”, possible interviewers responses are:
      - ❖ The interview will be short
      - ❖ The interviewer is already here
      - ❖ The project is important
      - ❖ The interviewer will not be difficult
      - ❖ The interviewer needs help

  - Silence
    - ✓ Repeat the question
    - ✓ Ask if they understand the question
    - ✓ Use open questions
    - ✓ Take a break
    - ✓ Ignore it and move on
    - ✓ Meet silence with silence
    - ✓ Interrupt
    - ✓ Get into the detail
    - ✓ Maintain eye contact

  - Inconsistent Statements
    - ✓ Agree with one of the respondent’s statements and go from there
    - ✓ Break the statements into smaller ones that would be difficult to disagree with
    - ✓ Restate the questions in different ways to ensure a correct answer
    - ✓ Surprise element (If respondent is stalling, he expects interviewer to apply pressure)

  - Vague Answers
    - ✓ Ask follow up questions
    - ✓ Rephase interviewee’s answers to clarify understanding
    - ✓ Controlled answer techniques (Use closed questions to get a “yes” or “no” answer)

  - False Statements (in which inaccurate information is provided.)

- ✓ Typically involve close friends and relatives of a subject, co-conspirators and similar individuals

- ✓ Indicators of deception – Physiology
  - People who are mentally unstable or under the influence of narcotics/ alcohol are unsuitable for interview
  - Lying produces stress in most people
  - Stress emanates through verbal and nonverbal clues, but consider totality of evidence

- ✓ Surprise element – ask questions out of natural sequence to prevent respondent from knowing exact nature of inquiry and where it is leading

One may find the clues from the appearance of the interviewees if they have made a false statement.

<u>Verbal clues</u>
- ✓ Lack of self-reference
- ✓ Simple explanation
- ✓ Changes in speech patterns/voice pitch
- ✓ Repetition of the question
- ✓ Comments regarding the interview
- ✓ Feigned unconcern

<u>Non-verbal clues</u>
- ✓ Full-body motions
- ✓ Illustrators – primarily the hands
- ✓ Restlessness – fidgeting, shifting a chair, foot-tapping, hand-wringing
- ✓ Fleeing position

<u>Physical symptoms</u>
- ✓ Dry mouth - lick their lips and swallow more frequently than normal
- ✓ Throat clearing
- ✓ Perspiring more than normal

- Emotional Interviewee

  - ✓ Take a break
  - ✓ Try to understand the pain point
  - ✓ Show sympathy
  - ✓ Avoid interviewee emotion take the lead
  - ✓ Gradually resume the pace
  - ✓ Two interviewers should be involved to provide psychological strength for interviewer
  - ✓ Approach the pain point from different angle and break into smaller questions

3. Closing the Interview

- Consider whether aim/objective has been achieved – any follow up questions
- Recap Documents or Information Request
- Explain future processes
- Invite questions
- Conclude the interview
  - ❖ Good closure, e.g.:
    - Provide the opportunity and time for the interviewee to correct, alter or add to their account
    - Finish interview on a positive note to encourage future co-operation
  - ❖ Bad closure, e.g:
    - Does not explain what will happen after the interview
    - Abruptly ends the interview

4. Evaluation phase

- Consider what new information and new evidence has been obtained
  - ❖ What does this new information mean? How does it impact our understanding of the investigation?
  - ❖ Evaluate interview outcome in the wider context of the investigation

- Identify new actions or lines of inquiry in light of the new information/ evidence
  - ❖ Further queries or document review to test the veracity of the interviewee's statements
  - ❖ Consider the need for a follow up interview

- Evaluate the interviewer's performance
  - ❖ Evaluate what did not go well but also what was done well and should be continued
  - ❖ Think about what could be improved